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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/634,546	08/08/2000	Nimrod Megiddo	AM9-99-0239	5606

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LACASSE & ASSOCIATES, LLC  
1725 DUKE STREET  
SUITE 650  
ALEXANDRIA, VA 22314

EXAMINER

BACKER, FIRMIN

ART UNIT	PAPER NUMBER
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3621

DATE MAILED: 11/19/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

*SUPPLEMENTAL*  
**Office Action Summary**

Application No.

09/634,546

Applicant(s)

MEGIDDO, NIMROD

Examiner

Firmin Backer

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*llw*

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE \_\_\_\_ MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
  - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
  - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
  - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 03 May 2004.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1,3-16,21 and 23-28 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,3-16,21 and 23-28 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. ____   |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date ____  | 6) <input type="checkbox"/> Other: ____                                     |

## **DETAILED ACTION**

### ***Examiner's Note***

1. The Examiner has pointed out particular references contained in the prior art of record in the body of this action for the convenience of the Applicant. Although the specified citations are representative of the teachings in the art and are applied to the specific limitations within the individual claims, other passages and figures apply as well. It is requested from the Applicant, in preparing the response, to consider fully the entire references as well as the context of all passages in the cited references as potentially teaching all or part of the claimed inventions.

### ***Response to Request for Reconsideration and Appeal Brief***

2. Applicant's requests for reconsideration (Paper No. 6, filed February 2<sup>nd</sup>, 2004, and Paper No. 9, filed May 3<sup>rd</sup>, 2004) of the finality of the rejection of the last Office action (Paper No. 5, mailed December 1<sup>st</sup>, 2003) are persuasive and, therefore, the finality of that action is withdrawn.

### ***Status of Claims***

3. Claims 1, 3-16, 21, and 23-28 remain pending.

### ***Response to Arguments***

4. Applicant's arguments have been fully considered but they are moot, in view of the new grounds for rejection.

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***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 1, 3-16, 21, and 23-28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gershman et al., US Patent 6,199,099, in view of Shkedy, US Patent No. 6,260,024 B1.

As per claims 1 and 27

Gershman discloses

*A system [article of manufacture...] for enhancing price discovery of products available in electronic commerce (Abstract; Summary of the Invention; Fig 1-1A, 9, associated text), wherein said system comprises:*

*one or more automated surveyors for surveying a plurality of posted prices, bid prices, posted quotes, quoted prices, and auctions (Fig 9, associated text; C28, L64 – C29, L53; C29, L56 – C30, L27; C56, L1 – C57, L11: "Shopper's Eye");*

*an buyer profile, said buyer profile used multiple times to develop historical usage therefor (Fig 13; associated text; C32-33: "User Persona"), said historical usage representing a sophisticated buyer and included within at least one of said one or more automated surveyors (Fig 12-14, associated text: C32, L7 – C33, L50: "User Persona"), said sophisticated buyer used as the buyer by said automated surveyors, and*

*wherein use of said buyer profile increases the probability of discovering the best prices in an electronic commerce environment which includes electronic price discrimination (Fig 10A-11, associated text: C30, L29 – C32, L6: "Egocentric Interface").*

Gershman does not recite using an "anonymous" user profile to perform price collection and

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determination of best prices for products on behalf of customers. However Gershman does teach that many sellers' prices for various products are collected over periods of time, collated, stored, compared to each other to determine the best prices, and those best prices will be recommended to users once they have indicated an interest in the products sold by these sellers (see above citations).

Shkedy discloses a method and system for optimizing prices obtainable by large groups of buyers whose orders are aggregated by the system operator and presented for bids from interested sellers (Abstract; Summary of the Invention; Figs 1, 2A, 5-10; associated text; C13, L7 – C18, L36). Shkedy teaches that group purchases will always command better prices from sellers, and that a system pulling together individual sellers and presenting requests for bids for large groups will always obtain lower prices for its individual member users.

It would have been obvious to one ordinarily skilled in the art at the time the invention was made to combine Gershman's and Shkedy's teachings and present to sellers interested in doing business with the proposed buyer's organization a user profile that is representative of the organization as a whole, i.e. an anonymous, large-sized user profile, for the purpose of obtaining the best possible bids from said sellers. Such a method would benefit all of the system's users, because it would provide lower prices to each user, and thus make the system more attractive to all.

As per claim 12.

Gershman discloses

*A method for enhancing buyers' performance in electronic commerce (Abstract, Summary of the Invention), wherein said method comprises:*

*electronically presenting information to sellers located across a network about sophisticated buyers (Fig 17, associated text; C34, L58 – C35, L7; C35, L8-11) who are not willing to pay more than a minimum price, said sophisticated buyers developed by historical use of buyer profiles;*

*using said sophisticated buyers to electronically gather information about prices on a network (Fig 9, associated text; C28, L64 – C29, L53; C29, L56 – C30, L27; C56, L1 – C57, L11: "Shopper's Eye"),*  
*and*

*indicating to sellers when they are competitive, and influencing them to lower prices (C57, L4-7: Negotiation of Offers").*

Gershman does not recite using an "anonymous" user profile to perform price collection and determination of best prices for products on behalf of customers. However Gershman does teach that many sellers' prices for various products are collected over periods of time, collated, stored, compared to

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each other to determine the best prices, and those best prices will be recommended to users once they have indicated an interest in the products sold by these sellers (see above citations).

Shkedy discloses a method and system for optimizing prices obtainable by large groups of buyers whose orders are aggregated by the system operator and presented for bids from interested sellers (Abstract; Summary of the Invention; Figs 1, 2A, 5-10; associated text; C13, L7 – C18, L36). Shkedy teaches that group purchases will always command better prices from sellers, and that a system pulling together individual sellers and presenting requests for bids for large groups will always obtain lower prices for its individual member users.

It would have been obvious to one ordinarily skilled in the art at the time the invention was made to combine Gershman's and Shkedy's teachings and present to sellers interested in doing business with the proposed buyer's organization a user profile that is representative of the organization as a whole, i.e. an anonymous, large-sized user profile, for the purpose of obtaining the best possible bids from said sellers. Such a method would benefit all of the system's users, because it would provide lower prices to each user, and thus make the system more attractive to all.

As per claims 3, 14.

Gershman further discloses

*Mak[ing] actual purchases for a buyer* (C2, L46: "...it is now possible for an agent to make an airline reservation, purchase the ticket, and have the ticket delivered to directly to a user."; C35, L35-45: "...the overall integrator system coordinates the delivery of products and services for a user. The integrator manages a network of approved suppliers providing products and services, both physical and virtual, to a user based on the user's preferences as reflected in the user's profile.").

As per claim 5.

Neither reference specifically discloses

*..collecting information about wholesale prices; generating reference points, and assessing from said reference points whether a posted price is reasonable.*

However Gershman teaches that software agents may be programmed to scan, track, store, and process a multitude of successive price quotes from the Internet, from which personalized reports and alerts may be generated for the system's users (see all above citations). In order for such agents to provide "intelligent" or "reasonable" purchasing advice to their users, a system built according to

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Gershman's teachings, therefore, would inherently need algorithms comparing wholesale versus retail, discounted, and special prices, in order to derive the best, or most reasonable prices to present to its users. Viewed in this light, the claimed limitation in these claims is not patentable over Gershman.

As per claim 6.

Gershman further discloses (C2, L49-53):

*scanning continuously commercial sites on a network; extracting posted quotes from said sites; maintaining a database of posted quotes, and*

*pointing a buyer to vendors that post a best price based on said posted quotes for an item the buyer is interested in.*

As per claims 7, 21, 28.

Gershman discloses

*generating/choosing one of a plurality of available names; requesting price quotes [located across a network] on behalf of said chosen names; storing all received quotes, and maintaining statistics about said stored received quotes for reference to future buyers using said system (Fig 15-16, associated text; C33, L51 – C34, L42).*

Gershman does not recite using "fictitious" names to perform price collection and determination of best prices for products on behalf of customers. However Gershman does teach that many sellers' prices for various products are collected over periods of time, collated, stored, compared to each other to determine the best prices, and those best prices will be recommended to users once they have indicated an interest in the products sold by these sellers (see above citations).

Shkedy discloses a method and system for optimizing prices obtainable by large groups of buyers whose orders are aggregated by the system operator and presented for bids from interested sellers (Abstract; Summary of the Invention; Figs 1, 2A, 5-10; associated text; C13, L7 – C18, L36). Shkedy teaches that group purchases will always command better prices from sellers, and that a system pulling together individual sellers and presenting requests for bids for large groups will always obtain lower prices for its individual member users.

It would have been obvious to one ordinarily skilled in the art at the time the invention was made to combine Gershman's and Shkedy's teachings and present to sellers interested in doing business with the proposed buyer's organization a user profile with a fictitious name that is representative of the

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organization as a whole, i.e. an anonymous, large-sized user profile, for the purpose of obtaining the best possible bids from said sellers. Such a method would benefit all of the system's users, because it would provide lower prices to each user, and thus make the system more attractive to all.

As per claim 4, 15, 23.

Gershman in view of Shkedy discloses all the limitations of claims 3, 14, 21.

Gershman further discloses

*...receiving purchased at least one item at a site owned by system operator or a third party, and shipping at least item to said buyer (C2, L46: "...it is now possible for an agent to make an airline reservation, purchase the ticket, and have the ticket delivered to directly to a user."; C35, L35-45: "...the overall integrator system coordinates the delivery of products and services for a user. The integrator manages a network of approved suppliers providing products and services, both physical and virtual, to a user based on the user's preferences as reflected in the user's profile.").*

As per claims 8, 13, 24.

Neither reference specifically discloses

*...promoting competition among sellers by: generating messages to inform sellers of lower prices quoted by their competitors; advising said sellers to consider lowering prices, and maintaining a website, for public viewing, regarding ratings of sellers.*

However Gershman does teach that collected information will be available to merchants participating in his system, and that efforts will be made to induce those participating merchants to be competitive (Fig 16-18, associated text). He also teaches that price negotiations may be conducted on behalf of users by their agents (C57, L4-7), and that user ratings of products/merchants would be kept and reported to future users (Fig 16, associated text; C34, L21-42). Therefore it would have been obvious to one ordinarily skilled in the art at the time the invention was made that all the limitations cited in these claims (e-mailing merchants price fluctuations, negotiating quotes, posting vendor ratings on a web page) would need to be implemented, in order to provide the strongest motive for sellers and buyers alike to participate in the system.

As per claims 9, 25.

Gershman further discloses

*... potential buyers receive messages of prices discovered by any of e-mail, regular mail, or faxes*



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(Fig 1 A, 17, associated text).

As per claims 10, 26.

Gershman further discloses (C56, L46 - C57, L3: "Specification of Goals, Refinement of Preferences, Identification and Comparison of Candidate Products").

...*probing* a commercial site with varying parameters associated with the price of at least one product, *uncovering* the underlying fee structure and how it varies with respect to different parameters, and suggesting to a potential buyer what parameters can be changed to save money.

As per claims 11, 16. Gershman further discloses

... said network includes any of the: Internet, WWW, wireless web, *LAN* or *WAN* (Summary of the Invention).

### *Conclusion*

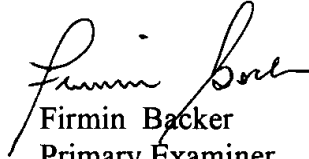
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Firmin Backer whose telephone number is (703) 305-0624. The examiner can normally be reached on Mon-Thu 9:00 AM - 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James Trammell can be reached on (703) 305-9768. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application

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Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Firmin Backer  
Primary Examiner  
Art Unit 3621

November 9<sup>th</sup>, 2004